

July 12, 2016

Ms. Kim MacEachern  
Chair  
Maricopa County Air Pollution Hearing Board  
101 N. Central Avenue  
#125  
Phoenix, AZ 85004

Dear Ms. MacEachern,

I am making an appeal to the Air Pollution Hearing Board (Board) regarding the action taken by Maricopa County Air Quality Department to issue a minor permit modification to Hickman's Egg Ranch, Inc. at 41625 W. Indian School Road. The Air Quality Permit to Operate and/or Construct is number 140062.

I am making this request under the Regulatory Bill of Rights (A.R.S. 49-471.01.12); administrative appeals (A.R.S. 49-471.15.A) where I am adversely affected and have made public comments; and of which the Board has jurisdiction over the matter per the Boards *Manual of Procedures* (§1.2.E).

The Board requires specific information for the appeal, which can be found in Attachment 1. The comments that I submitted at the public hearing are under Attachment 2 and Attachment 3 contains Maricopa County Air Quality Department's response to the public hearing comments. Notice to appeal letters are found in Attachment 4.

My comments give good reason for denying minor permit modification and justify that a more appropriate permit be issued for all the sources of air pollution at this egg laying and processing facility.

Please contact me at 623-386-5160 if additional information is needed. I will not be available between July 20<sup>th</sup> and August 3<sup>rd</sup> and ask that the Board set a hearing that will accommodate my absence.

Sincerely,

Daniel E. Blackson

**Ex. 6 - Personal Privacy**

## Attachment 1

### Contents of a Notice of Appeal/Request for Hearing

Maricopa County  
Air Quality Hearing Board  
Manual of Procedures  
(§ 3.7.A)

## Contents of a Notice of Appeal/Request for Hearing

1. **Name, address and telephone number of the petitioner and, if the petitioner is represented by an attorney, the name, address, telephone number, and Arizona Bar number of the petitioner's attorney.**

Daniel E. Blackson

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I am not represented by an attorney at the time of filing.

2. **Names, mailing addresses, and telephone numbers of interested parties:**
  - a. **The permittee**
  - b. **All persons who filed a notice of appearance in the action before the Department**
  - c. **The Department**

The permittee is:

Hickman's Egg Ranch, Inc.  
41625 W. Indian School Road  
Tonopah, AZ 85354

(623) 872-1120 or (623) 872-2341

I do not believe that anyone filed a notice of appearance in the action before the Department. A public hearing was held by Maricopa County Air Quality Department and there was a voluntary sign-in sheet for those that attended.

The Department is the Maricopa County Air Quality Department.

3. **The specific action of the Control Officer or Department or Department involving the grant, denial, modification, or revocation of a variance, permit, conditional order, appealable agency action, notice of violation or abatement order issued under by the Control Officer or Department or denial of a permit transfer together with citation to the specific statutes and rules involved in the substantive appeal or hearing.**

The specific action of the Control Officer/Department is the granting of a minor permit modification for Air Quality Permit to Operate and/or Construct Number 140062 (Permit). I have cited specific statutes and rules in my public hearing written comments. See Attachment 2.

4. **For appealable agency actions, where the party had any right to comment on the action, and if so, the date such comments were filed with copies thereof.**

The public hearing was held on April 19, 2016. At that time I filed my written comments. I asked for a receipt of my comments, but the Department declined because the Department does not provide acknowledgement of receiving comments. A copy of my comments are provided in Attachment 2.

5. **The date of action by the Control Officer or Department**

The Control Officer/Department responded to the public hearing comments in a letter dated June 10, 2016.

**6. The date the notice of action by the Control Officer or Department was received by the petitioner**

I received an email from Ms. Rachel Danley on June 13, 2016 which contained a copy of the responses to the public comments. As stated above the letter was dated June 10, 2016 and signed by Richard A. Sumner, Permitting Division Manager.

**7. The relief requested by the petitioner and concise statement of the reasons for the appeal or request for hearing**

I cannot enjoy my property because of obnoxious, offensive, objectionable odor and the other air pollution from the source is detrimental to public health and the environment. I am asking for the following relief as based on my previous comments (See Attachment 2):

- a. **Comment #1** Maricopa County Air Quality Department (Department) failed to include my written comment and provide a direct answer. However, a generic response was given in: **MANUFACTURING VERSUS AGRICULTURAL/AGRICULTURE BEST MANAGEMENT PRACTICES (AG BMP)**. A.R.S. 49-457.0 "preempts further regulation of regulated agricultural activities by a county, city, town or other political subdivision of this state". Therefore, the Department improperly is applying the definition of "regulated area" to supplant Rule 311 and State Implementation Plan (SIP) Regulation 3 with best management practices (BMPs). Additionally the definition of "normal farm cultural practices" (Rule 310 §221) does not include poultry operations or handling of bulk materials, so all the dust generated by the poultry CAFO is not exempt.
- b. **Comment #2** The Department did not include my written comments in Comment #2 in their responses. The scientific data where the department "concluded that no materials are being allowed to unreasonably evaporate, leak, escape or be otherwise discharged into the ambient air" will have a significant impact on the Permit conditions and must be disclosed. The Department fails to recognize the ability to measure noxious chemicals and odorous components of chicken manure.
- c. **Comment #3** The Department did not respond to my written comment that the compliance demonstration for hydrogen sulfide is inadequate. The Permit lacks rigor in demonstrating compliance with hydrogen sulfide emissions when odor complaints are made.
- d. **Comment #5** The Department failed to include my written comments and provide direct answers. The plain language of the Permit's Odor Control Standard does not call out hydrogen sulfide, so measuring hydrogen sulfide cannot solely demonstrate compliance with the Permit's Odor Control Standard. The Department did not include a compliance plan in the revised Permit for the Odor Control Standard in the permit although there have been approximately 120 odor complaints with the Department and approximately 65 with Arizona Department of Environmental Quality. The complaints demonstrate a violation of the plain language of the Odor Control Standard in the Permit. The Department's action is not consistent with Rule 220 §301.2.
- e. **Comment #6** The Department did not respond to my written comment for the Permit to include requirements for hauling manure. Rule 310.01 §302.8.a(2) specifies control measures for bulk hauling of animal waste. The bulk manure hauling is part of the permittee's operations and the Permit should include the regulatory requirements.

- f. **Comment #7** The Department did not respond to my written comment. The facility has numerous processes making it a process industry under Rule 311 and SIP Regulation 3 Rule 311. Additionally, the Department does not have regulatory authority to apply BMPs to this poultry CAFO per A.R.S. 49-457.0 and its location does not satisfy the definition of “regulated area” (A.R.S. 49-457.P.6).
- g. **Comment #8** The Department did not provide a response to my written comments. The Department did include an example that included a statement: “... New Source Review conducted...” (7.(3), but did not provide a regulatory based response. The Department cited the EPA Federal Register Notice [http://www3.epa.gov/airquality/agmonitoring/pdfs/afolatooneemreport2012draftapp.pdf#\\_ga=1.22794168.2087244103.142478829](http://www3.epa.gov/airquality/agmonitoring/pdfs/afolatooneemreport2012draftapp.pdf#_ga=1.22794168.2087244103.142478829) and emphasized the statement: “The Agency plans to issue regulations and/or guidance on this issue after the conclusion of the monitoring study.” What the Department fails to mention is that the EPA, in this document, encouraged agencies to act by applying, enforcing, and implementing regulations. See my Comment #9 and the referenced document.
- h. **Comment #9** The Department did not provide a response to my written comments, but made a statement that the Department considers the VOC emissions from the henhouses as fugitive. This conclusion is not consistent with the Rule 100 definitions of source, stationary source, and fugitive emissions and 40 C.F.R § 51.165 (a)(1)(ix), fugitive emissions definition. Also see my Comment #9 where the EPA recognizes that State and local agencies are undertaking efforts to improve emission estimation methodologies for AFOs. The Department rules do not prohibit the Department from developing VOC emissions estimates and including them as a permit requirement.
- i. **Comment #10** The Department provided a response to odor comments, but did not include my written comments . The Department is wrong when the Department stated that “there is no commonly accepted way of quantifying or measuring odor”. Odor can be measured quantitatively and qualitatively and it is not difficult to evaluate. Since there is an Odor Control Standard in the Permit, the Department has an obligation to permittee and the public to establish a methodology to show compliance with the plain language of the Odor Control Standard in the Permit.
- j. **Comment #11, #13, & #14** The Department did not address my written comments directly, but did discuss the completeness of the application. The permittee omitted required information and provided misinformation, which is a violation of Rule 200 § 401, Rule 220 § 301.4.a, and Rule 220 § 301.5 and Arizona Administrative Code R18-2-304.G. & H. Although the Control Officer may have been provided the information, it was not made available to the public. Failure to include the installation of a boiler and propane tank on the original applications demonstrates the permittee’s omission of information on applications.
- k. **Comment #17** The Department did not respond to my written comments, but made general comments about henhouses in the Department’s response #15. The Department states: “No evidence has been provided by the source, the commenters, or independent research by MCAQD that would identify any potential hazards air pollutants approaching regulatory thresholds.” The Department did not do their diligence in requiring the source to identify air pollutants approaching regulatory thresholds (as would be done through a New Source Review) and perhaps there are reports that indicate that air pollutant regulatory thresholds could be exceeded.
- l. **Comment #18** The Department did not respond to my written comments. Hydrogen sulfide is not representative to the odors leaving the poultry CAFO property and

additional verification and corrective actions for odor complaints should be added to the permit.

- m. I am requesting response to all of my written comments that I provided at the public hearing on held on April 19, 2016, an accurate, complete minor permit modification application for public viewing, enforcement penalties for operating air pollution equipment without a permit, and denying minor permit modification for a more appropriate permit.

**8. The date of the notice of appeal or request for hearing**

The date of the notice of appeal or request for hearing is July 12, 2016.

**9. The signature of the petitioner or petitioner's attorney**

As the petitioner, my signature is on the attached cover letter.

**10. A verification that the petitioner has served or caused to be served, a copy of notice of appeal on the Department and all parties named by the petitioner.**

The letters that the Department and permittee have been served or caused to be served are in Attachment 4 & 5, as well as a signed statement.

Attachment 2

Written Comments Submitted by Dan Blackson

at

Maricopa County Air Quality Department

Public Hearing on April 19, 2016

## Attachment 3

Maricopa County Air Quality Department

### Response to Comments

Dated June 10, 2016  
Received June 13, 2016



Attachment 4

Maricopa County Air Quality Department

Notice of Appeal and Written Statement

### **Service of Pleadings**

In accordance with Maricopa County Air Quality Hearing Board Manual of Proceedings, §3.5.C, I am submitting this statement that on July 12, 2016 I mailed a copy of my request to appeal to the Air Pollution Hearing Board regarding the action taken by Maricopa County Air Quality Department to issue a minor permit (#140062) modification for Hickman's Egg Ranch, Inc. at 41625 W. Indian School Road to:

Mr. Philip McNeely  
Director  
Maricopa County Air Quality Department  
101 N. Central Avenue  
Phoenix, AZ 85004

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Daniel E. Blackson

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Date

July 12, 2016

Mr. Philip McNeely  
Director  
Maricopa County Air Quality Department  
101 N. Central Avenue  
Phoenix, AZ 85004

Dear Mr. McNeely,

This is to provide notice to you that I am making an appeal to the Air Pollution Hearing Board regarding the action taken by Maricopa County Air Quality Department to issue a minor permit (#140062) modification to Hickman's Egg Ranch, Inc. at 41625 W. Indian School Road.

A copy of the appeal to the Air Pollution Hearing Board is attached.

Sincerely,

Daniel E. Blackson

**Ex. 6 - Personal Privacy**

Enclosure

Attachment 5

Permittee

Notice of Appeal and Written Statement

### **Service of Pleadings**

In accordance with Maricopa County Air Quality Hearing Board Manual of Proceedings, §3.5.C, I am submitting this statement that on July 12, 2016 I mailed a copy of my request to appeal to the Air Pollution Hearing Board regarding the action taken by Maricopa County Air Quality Department to issue a minor permit (#140062) modification for Hickman's Egg Ranch, Inc. at 41625 W. Indian School Road to:

Mr. Billy Hickman  
Vice President of Operations  
Hickman's Family Farms  
6515 S. Jackrabbit Trail  
Buckeye, AZ 85326

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Daniel E. Blackson

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Date

July 12, 2016

Mr. Billy Hickman  
Vice President of Operations  
Hickman's Family Farms  
6515 S. Jackrabbit Trail  
Buckeye, AZ 85326

Dear Mr. Hickman,

This is to provide notice to you that I am making an appeal to the Air Pollution Hearing Board regarding the action taken by Maricopa County Air Quality Department to issue a minor permit (#140062) modification to Hickman's Egg Ranch, Inc. at 41625 W. Indian School Road.

A copy of the appeal to the Air Pollution Hearing Board is attached.

Sincerely,

Daniel E. Blackson

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